APPROVED MINUTES

SUNNYVALE CITY COUNCIL, REDEVELOPMENT AGENCY MEETING, FINANCING AUTHORITY MEETING AND ONIZUKA LOCAL REDEVELOPMENT AUTHORITY MEETING TUESDAY, JUNE 24, 2008

5 P.M. SPECIAL COUNCIL MEETING - (Study Session) Update on managing the budget reductions in the Department of Employment Development/NOVA, and service delivery and organizational changes being planned for FY 08/09.

6 P.M. SPECIAL COUNCIL MEETING (Closed Session) - Conference with real property negotiators pursuant to Government Code §54956.8. Property: MetroFi wireless network installations; Agency negotiator: Cuong Nguyen, Information Technology Director Negotiating parties: MetroFi Network; Under negotiation: Terms of lease and franchise termination.

7 P.M. REGULAR MEETING

SALUTE TO THE FLAG

Vice Mayor Hamilton led the salute to the flag.

ROLL CALL

PRESENT: Vice Mayor Melinda Hamilton

Councilmember John Howe
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Christopher Moylan
Councilmember David Whittum

ABSENT: Mayor Anthony Spitaleri (excused)

STAFF PRESENT: City Manager Amy Chan

Assistant City Manager Robert Walker

City Attorney David Kahn

Community Development Director Hanson Hom

Director of Public Works Marvin Rose

Assistant to the City Manager Coryn Campbell

Planning Officer Trudi Ryan

Director of Information Technology Cuong Nguyen

Assistant City Attorney Rebecca Moon

Transportation and Traffic Manager Jack Witthaus

City Clerk Gail Borkowski

CLOSED SESSION REPORT FOR JUNE 24, 2008

Vice Mayor Hamilton reported that City Council met in Closed Session earlier this evening regarding: Conference with real property negotiators pursuant to Government Code §54956.8. Property: MetroFi wireless network installations; Agency negotiator: Cuong Nguyen, Information

Technology Director Negotiating parties: MetroFi Network; Under negotiation: Terms of lease and franchise termination

Vice Mayor Hamilton reported direction was given, but no action was taken.

SPECIAL ORDER OF THE DAY

Proclamation - July is National Parks and Recreation Month

SPECIAL ORDER OF THE DAY

Department of Public Safety Special Awards

PUBLIC ANNOUNCEMENTS

Councilmember Howe stated he would like the record to reflect an excused absence for Mayor Spitaleri for all meetings held this evening. Those meetings include City Council, Redevelopment Agency, Finance Authority, and Local Redevelopment Agency. Vice Mayor Hamilton agreed and further explained that the mayor is out of town on business and verified that the mayor does have an excused absence.

Councilmember Whittum announced an upcoming joint meeting with the mayors, councilmembers and city managers from the City of Cupertino, City of Mountain View, City of Santa Clara, and City of Sunnyvale. This meeting will discuss general regional issues, policy issues, and land developments. Councilmember Whittum stated the meeting was proposed at the request of the City of Sunnyvale through a motion made by Councilmember Howe.

Councilmember Moylan stated the city accepts applications for all boards and commissions on a continuous basis and announced the current openings on the City's boards and commissions.

CONSENT CALENDAR

Councilmember Howe pulled Item 1.E.

MOTION: Councilmember Howe moved and Councilmember Lee seconded to approve the Consent Calendar with the exception of Item 1.E.

VOTE: 6-0 (Vice Mayor Spitaleri absent)

1.A. Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

1.B. RTC 08–196 List of Claims and Bills Approved for Payment by the City Manager – Lists No. 405 & 406

Staff Recommendation: Council reviews the attached lists of bills.

1.C. RTC 08–187 Approval of Budget Modification No. 56 in the Amount of \$63,740 to Cover the Cost of Emergency Repairs to Damaged Buildings due to Fire and Storms

<u>Staff Recommendation</u>: Council approves Budget Modification No. 56 in the amount of \$63,740 to cover unforeseen expenditures related to the Kiln Room fire and the damage to City facilities caused by a severe winter storm.

1.D. RTC 08–167 Notice of Intent to Apply for, Accept, and Appropriate a Grant in the Amount of \$25,000 from the Severns Family Foundation for CPR Training in High Schools and Budget Modification No. 55

<u>Staff Recommendation</u>: Council authorizes staff to apply for, accept and, if the grant is awarded, appropriate the Severns Family Grant monies and approve Budget Modification No. 55.

1.E. RTC 08–201 Traffic and Transportation Services Budget Overrun Due to Increased Demand for Traffic Signal Services and Emergency Repairs and Approval of Budget Modification No. 59

Director of Public Works Marvin Rose stated there is a procedural error in the agenda. The agenda shows a recommendation that was from a prior report. Director Rose read into the record the actual recommendation as follows:

Staff Recommendation: Budget Modification No. 59 be approved in the amount of \$325,000; to reappropriate funds from the Public Works Pavement Operations Program; to appropriate funds from the General Fund 20-Year RAP Reserve into the operating budget for the Traffic and Transportation Services program to cover this overage; increase costs for future years will be addressed in the next recommended budget.

Councilmember Howe verified that the repair on this intersection was not part of the normal budget process because it came as a surprise. Councilmember Howe stated staff was innovative and found funding to assist with this issue.

Councilmember Howe questioned what source of funds is normally used for traffic signal intersections. Director Rose stated typically the operating program handles the maintenance and operations of the traffic signals and staff does anticipate funding for damage within the operating program that is either general or gas tax funds because it is gas tax eligible.

Councilmember Howe verified with Director Rose that the City receives approximately \$1.4 million in gas tax funds which are used for more routine things that staff has already planned. Councilmember Howe inquired if \$185,000 was taken out of the future gas tax funds, what would be the direct result and Director Rose explained that it would have the potential of delaying gas tax funded projects by that amount of funding. Councilmember Howe verified with Director Rose that the \$185,000 would be roughly 11 to 12 percent of what would be received in a year.

Councilmember Moylan inquired if staff anticipates that some of the \$185,000 is expected to be returned by recovery and Director Rose responded that all of the \$185,000 is recovery restitution from damage to property and other things. Staff is suggesting that revenue is available for this use.

Councilmember Moylan verified with Director Rose that nothing would be taken out of the reserve. Director Rose explained that staff estimates damage every year based on history. This past year was a bad year with traffic signal damage and construction operations going on within the City. No money will be coming out of reserves and that staff will use the recovery money they have to cover this overage in repairs.

Public hearing opened at 7:25 p.m.

No speakers.

Public hearing closed at 7:25 p.m.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve the revised staff recommendation as presented by Director Rose: Council approves Budget Modification No. 59 in the amount of \$325,000; to reappropriate funds from the Public Works Pavement Operations Program;

with: funds are not to be appropriated from the General Fund 20-Year RAP Reserve and to take the \$185,000 of future gas tax money and put into Council set-aside using \$185,000 of future gas tax money. The \$185,000 can be a loan from the General Fund for one year and use the future gas tax money for this purpose, and increased costs for future years will be addressed in the next recommended budget.

Councilmember Howe stated the columns should be kept straight in that what is gas tax and traffic related should come out of traffic related and the 20 Year Rap Reserve should be left alone for this purpose. Council should use the \$185,000 because the Council set aside fund has been drained for the next 18 months.

City Manager Amy Chan explained that if this motion were to pass, staff would come back to Council and identify which projects would not be undertaken in the coming year because the future gas tax funds have already been programmed. Staff anticipates future gas tax funds throughout the twenty year plan; therefore, some projects would need to be deferred.

Councilmember Howe stated this was a surprise to staff and asked what staff would do if the \$185,000 was not available. City Manager Chan stated staff's intent is to use some of the restitution fund to support some of these repairs. City Manager Chan stated the options would be to not make the repairs; however the restitution funds can be used to make the repairs when no additional fund has been allocated. City Manager Chan explained this is a planned reserve.

Councilmember Whittum stated the City has a digital marquee for \$195,000 and Council could suggest staff evaluate the elimination of that item from next year's budget. Councilmember Whittum stated removal of the proposed digital marquee might actually reduce the likelihood of accidents from drivers attempting to read the marquee.

Councilmember Moylan stated the 20 year reserve is higher than expected because the City has been paid from accidents that have occurred involving City signs. Councilmember Moylan stated it makes sense to put money into the reserve and pull funds back out of the fund to fix the signs. This is the best way to link the source of revenue and the expenditures. Councilmember Moylan stated he agrees with the basic philosophy behind the motion; however he supports the staff recommendation.

Councilmember Moylan stated the gas tax funds fund the City's congestion management program and he would be very reluctant to imperil any of those projects, given the severe congestion issues in various parts of the City.

City Manager Chan clarified that the digital marquee is funded from the general fund, not the gas tax fund.

Councilmember Lee stated he will not be able to support the motion as he does not know what would be taken out of the gas tax. Councilmember Lee stated he supports the staff recommendation.

VOTE: 2-4 (Councilmembers Moylan, Lee, Vice Mayor Hamilton, Councilmember Whittum dissented and Mayor Spitaleri absent).

MOTION FAILED

MOTION: Councilmember Lee moved and Councilmember Moylan seconded to approve the revised staff recommendation as presented by Director Rose: Council approves Budget Modification No. 59 in the amount of \$325,000; to reappropriate funds from the Public Works Pavement Operations Program; to appropriate funds from the General Fund 20-Year RAP Reserve into the operating budget for the Traffic and Transportation Services program to cover this overage; increased costs for future years will be addressed in the next recommended budget.

Councilmember Whittum offered a friendly amendment to consider cutting the digital marquee in the amount of \$195,000 from the budget.

Friendly amendment not accepted.

VOTE: 5-1 (Councilmember Howe dissented; Mayor Spitaleri absent)

1.F. RTC 08–198 Acceptance and Appropriation of Traffic Safe Communities Network of Santa Clara County Funds and Budget Modification No. 62

<u>Staff Recommendation</u>: Council accepts and appropriates the TSCN monies for the Be Aware of Your Speed Campaign and approves Budget Modification No. 62.

Contracts

1.G. RTC 08–195 Award of Contract for Liquid Chlorine and Liquid Sulfur Dioxide (F0703-78)

<u>Staff Recommendation</u>: Council awards a purchase order, in substantially the same form as the attached draft and in the amount of \$419.90 per ton for Liquid Chlorine and \$415.90 per ton for Liquid Sulfur Dioxide for one year from the date of award to Olin Corporation, for an annual estimated cost of \$167,360.

1.H. RTC 08–192 Award of Contract for the Maintenance of the City's Radio Communication Systems (F0706-100)

<u>Staff Recommendation</u>: Council awards a one-year contract, in substantially the same form as the attached draft and in an amount not to exceed \$180,927, to Motorola Incorporated for the maintenance of the City's radio communications systems.

1.I. RTC 08–191 Award of Bid No. F0704-89 for Traffic Signal Reconstruction at Mary and Fremont Avenues

Staff Recommendation:

- Council awards a contract, in substantially the same form as the attached draft and in the amount of \$419,142 to Tennyson Electric Incorporated for the traffic signal reconstruction at Mary and Fremont Avenues; and
- Council approves a project contingency in the amount of \$62,871.
- 1.J. RTC 08–200 Award of Request for Proposals No. F0703-77 for Polymer Flocculant for the Water Pollution Control Plant

<u>Staff Recommendation</u>: Council awards a three-year contract, in substantially the same form as the attached draft, and in an amount not to exceed \$1,000,000, to Polydyne Incorporated of Riceboro, Georgia, to provide polymer flocculant and related technical support to the Water Pollution Control Plant.

Other Items

1.K. RTC 08–197 FY 2007/2008 Department of Employment Development Expenditure and Revenue Update and Approval of Budget Modification No. 60

Staff Recommendation: Council approves Budget Modification No. 60.

1.L. No. 2872-08

Adoption of Ordinance No. 2872-08 amending The Zoning Plan,
Zoning Districts Map, to Rezone Certain Property Located at 408 Flora
Vista Avenue, 421 South Bayview Avenue and 420 Flora Vista Avenue
from R-0 (Low Density Residential) and R-2 (Low Medium Density
Residential) to R-1.5/PD (Low Medium Density Residential/Planned
Development) and R-2/PD (Low Medium Density Residential/Planned
Development) Zoning District

Staff Recommendation: Council approves the second reading of Ordinance No. 2872-08.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Werner Gans stated he was disappointed that Council waived from the fiscal year 2008/09 budget, the policy established by the past Council to enhance the safety of Sunnyvale's pedestrians by removing 50 liquidambar trees a year. Gans spoke of the damage that these trees continue to do to the sidewalks, and also the safety issues created by the prickly balls that fall from these trees. Gans proposed Council eliminate the proposed digital marquee in order to pay for the removal of these trees. Gans suggested a public hearing be held regarding this matter of public safety.

Councilmember Swegles questioned the safety issues created by these trees and City Manager Chan stated that staff can share the number of claims the City has received from these trees. Director of Public Works Marvin Rose stated the City has logged approximately three claims since 1999 for trip and falls from these trees.

Councilmember Swegles verified with Director Rose that since Council authorized the removal of liquidambar trees, the City has removed 148 trees. Councilmember Swegles inquired how many trees are planned for removal and Director Rose stated that Council direction was for the removal all of the trees of which there are approximately 3,500 total liquidambar trees.

Gans stated the City's traffic engineer should be questioned about the safety of installing a lighted marquee at butcher's corner.

Councilmember Whittum inquired what the City's traffic engineer thinks about the safety of the digital marquee at El Camino and Wolfe. Councilmember Whittum stated it is an interesting question as it is a busy intersection with a high accident rate. Vice Mayor Hamilton requested that Councilmember Whittum speak about this issue during the non-agenda items section at the end of tonight's meeting.

Harriet Rowe, Planning Commission Member, speaking on her own behalf, stated she has fallen from stepping on a liquidambar prickly ball but did not report her injury. Rowe stated she is aware of others who have fallen but have not reported their falls. Rowe stated her concern and questioned if this issue could be looked at again to at least remove those trees located in the worst safety location.

Steve Ispas passed out to Council copies of a resolution that was recently passed by Santa Clara County. Ispas requested Council review this resolution and pass a similar resolution regarding supporting human rights for the people of China during the month of August. Ispas explained his reasons as to why it is important for Council to pass this resolution.

Chung Lim and Eric Huang spoke in support of Council adopting a resolution supporting human rights for the people of China.

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 08–180 Study Issues Process (Study Issue)

Assistant to the City Manager Coryn Campbell presented the staff report.

Councilmember Whittum inquired that hypothetically, if a councilmember was sworn in on January 8 and the study issues workshop was held on January 25, how would a new

councilmember submit a study issue. Councilmember Whittum inquired whether the new councilmember would submit a study issue at their very first meeting after they were hypothetically sworn in on January 8. Councilmember Whittum inquired if the study issue process under the staff recommendation is still available to new councilmembers or would they be shut out of the process. Assistant to the City Manager Campbell explained that the study issue binder would go to the newly elected councilmember but they would not be able to vote on the items until the first meeting in January when they are sworn in. At the first meeting in January, the item would need to be voted on by Council.

Councilmember Whittum inquired how the newly elected official could submit study issue items when they are not yet sworn into office. Assistant to the City Manager Campbell stated a councilmember-elect can submit potential study issues in advance prior to being seated and the study issues would then be voted on when the councilmember took office.

Vice Mayor Hamilton verified with the Assistant to the City Manager Campbell that staff is proposing to put an action item on the agenda three to four times per year in which Council would vote on study issues. Vice Mayor Hamilton inquired as to how different that process would be from the current process of preparing study issue papers. Vice Mayor Hamilton stated that it would be helpful to have background information on the item prior to voting on it; however, that would essentially require staff to produce a study issue paper. Assistant to the City Manager Campbell stated the concept is to allow Council the ability to introduce their study issues at the Council meeting and at that time, Council could direct staff to prepare a study issue staff report; however, that would require considerably more work. Vice Mayor Hamilton verified with Assistant to the City Manager Campbell that generating a staff report per proposed study issue was not part of this proposal.

Vice Mayor Hamilton verified with Assistant to the City Manager Campbell that the study issue process Choice Rank voting is an option that can be considered.

Public hearing opened at 8:00 p.m.

Jim Griffith stated the requirement that four Councilmembers vote in support of any proposed study issue is an unusually high requirement for support. Griffith stated obtaining two or three councilmembers support for a study issue is more appropriate.

Public hearing closed at 8:01 p.m.

Vice Mayor Hamilton requested her fellow Councilmembers make separate motions for each section of the staff recommendations.

City Attorney David Kahn responded to Councilmember Whittum's earlier question regarding the ability for new councilmembers to vote on study issues. City Attorney Kahn stated if the matter on the agenda is to consider, vote and rank possible study issues then it would be possible to raise and vote on new study issues.

Councilmember Moylan verified that Vice Mayor Hamilton is requesting six separate motions on the sections. Councilmember Moylan explained that he is in favor of the staff recommendations on the last five sections. Councilmember Moylan stated he has an alternative for section A.1. Study Issue Sponsorship.

MOTION: Councilmember Moylan moved and Councilmember Lee seconded to approve A.1 Study Issue Sponsorship (as modified from staff recommendation in bold): Require that a proposed study issue receive support from **two** councilmembers in order for staff to prepare a study issue paper, and for the issue to be considered at the Council Study Issues Workshop. An action item to propose study issues would be added to Council agendas three to four times a year.

Councilmember Moylan stated he would be open to a friendly amendment that would include councilmember-elects being allowed to support a study issue, which would solve the problem of not getting to rank study issues.

Vice Mayor Hamilton stated Council has previously run into issues giving privileges to Councilmember-elects who have not actually been seated yet and questioned whether a Councilmember-elect would have the ability to vote prior to being seated.

City Manager Chan clarified that once councilmembers are sworn in they can act on any item on the posted agenda. City Manager Chan stated the staff recommendation is to allow Council the ability to formally raise study issues and receive a certain number of votes for the item to go forward. A newly-elected councilmember who has been sworn in can suggest study issue items and have a discussion at that meeting at which time staff can take that information and move forward with the study issues workshop. It would not be legal for councilmember-elects to have the ability to vote on any items; however, based on the staff recommendation, there does not appear to be a timing issue.

Councilmember Moylan clarified that what he meant by a councilmember-elect is the time between when the votes have been counted and the councilmember has officially taken office. Allowing the councilmember-elect to have the ability to suggest study issue items and to be a part of the number needed to sponsor a study issue would eliminate Councilmember Whittum's concern. This is not an issue of voting on an item as a councilmember, rather it involves who may co-sponsor a study issue. Councilmember Moylan restated that if Council wants to include councilmember-elects as those who may sponsor study issues, that would be acceptable and he would be happy to add that to his motion.

Councilmember Whittum offered a friendly amendment to change the word "and" in the motion to "but not". This change would relieve staff of any responsibility for study issues that do not have two sponsors. Councilmember Whittum explained that the problem is that the councilmember-elect will not have an opportunity to discuss any of this. Councilmember Moylan stated Councilmember Whittum's syntax gives the opposite meaning of his explanation. Councilmember Moylan stated he will not accept the friendly amendment.

Councilmember Whittum offered a friendly amendment to add a sentence which states "this rule will not apply to newly appointed councilmembers." Councilmember Moylan stated he will not accept the friendly amendment.

Councilmember Moylan stated if his colleagues wish to add an amendment stating that a Councilmember and councilmember-elect may sponsor a study issue in December, he would accept that as an amendment. Councilmember Moylan explained that he would accept an amendment allowing councilmember-elects to be included in the sponsorship of a study issue.

City Attorney Kahn stated it is not possible to allow a councilmember-elect to co-sponsor a study issue. Councilmember Moylan asked how allowing a councilmember-elect this opportunity is different than board and commission members submitting a study issue. City Attorney Kahn explained that a board or commission member can propose a study issue but it requires the support of a councilmember to move it forward. A councilmember-elect could propose a study issue but it would require sitting councilmembers to move it forward.

Councilmember Moylan stated he was under the impression that board and commission members could sponsor study issues. Councilmember Moylan stated a councilmember-elect should not be less empowered than a board or commission member.

City Manager Chan stated board and commission members can suggest items and then the entire board or commission must have four members vote in support of the study issues before it can move forward to Council for consideration. City Manager Chan stated a councilmember-elect can suggest a study issue the same as any public members. The issue would need to be supported by a certain number of sitting councilmembers. City Manager Chan explained that staff can also place this item on the agenda for the first week of January after the new councilmembers swearing in. At that point the new councilmember could raise their study issue and obtain another councilmembers support.

Councilmember Moylan asked the city attorney if a councilmember-elect could co-sponsor a study issue with a sitting councilmember. City Attorney Kahn explained that because the seating of new councilmembers was moved to the first week of January, legally until that has happened, the councilmember-elect does not have any authority to act on behalf of the City.

Councilmember Moylan stated that based on the city attorney's explanation, there is no way for a councilmember-elect to sponsor a study issue and therefore the motion stands.

Councilmember Swegles offered a friendly amendment requiring three members of the Council to approve a study issue. Councilmember Swegles stated he is suggesting three Councilmembers because there are a number of study issues and three is closer to a majority in support, which in turn could reduce the number of study issue items.

Councilmember Moylan agreed that the more Councilmembers who sponsor a study issue, the less study issues there would be; however, the problem lies in not being able to view the staff report prior to deciding on whether or not to support the issue. Councilmember Moylan stated that adding one more person, for a total of two, will help clean up the problem of having too many study issues to rank. Councilmember Moylan explained that he is more worried about losing a good study issue than having too many. Councilmember Moylan explained that he prefers to add the amount of Councilmembers needed to sponsor a study issue incrementally. Councilmember Moylan stated he will not accept the friendly amendment.

Councilmember Whittum offered a friendly amendment to add the following sentence to the motion: "Issues proposed by a new councilmember will be considered at the study issues workshop even if there is no staff work for it."

Councilmember Moylan stated it is critical to know how many hours a study issue will take and what staff thinks the result of the study would be. If there was not any staff work

included, it would not be worth ranking the item. Friendly amendment not accepted.

Councilmember Moylan stated that cleaning up the back log of study issues would require limiting study issues that have been deferred for two years. Councilmember Moylan stated he will add this to his motion

Amended MOTION: Councilmember Moylan moved and Councilmember Lee moved to approve Alternative A.1 Study Issue Sponsorship (as modified from staff recommendation in bold). Require that a proposed study issue receive support from **two** councilmembers in order for staff to prepare a study issue paper, and for the issue to be considered at the Council Study Issues Workshop. An action item to propose study issues would be added to Council agendas three to four times a year.

add If the study issue has been dropped by Council in the last two years, it would require at least four votes in support of the study issue for it to move forward.

Vice Mayor Hamilton stated she objects to the amendment.

Councilmember Whittum stated this change raises an additional barrier. Councilmember Whittum explained that if this barrier were in place this year, a number of approved items would not have been approved. Councilmember Whittum stated the point is to discuss these things in public. Councilmember Whittum stated he is opposed to changing the study issue primarily because of the effect it will have on newly-elected councilmembers.

Vice Mayor Hamilton stated she will not support the motion due to the amendment to the original motion requiring four votes in support of deferred items. Vice Mayor Hamilton stated she disagrees with adding study issue reviews every three or four months as it is not a good use of Council's time. Vice Mayor Hamilton stated she does agree with having two councilmembers support a study issue.

Vice Mayor Hamilton stated she disagrees that what Council does is not in front of the public. Vice Mayor Hamilton stated the study issues workshop is fully open to the public.

Councilmember Swegles stated he is in favor of having three Councilmembers support a study issue as opposed to two.

VOTE: 3-3 (Vice Mayor Hamilton and Councilmembers Whittum and Swegles dissented; Mayor Spitaleri absent)

MOTION FAILED.

MOTION: Councilmember Lee moved and Councilmember Moylan seconded to approve A.1 Study Issue Sponsorship (as modified from staff recommendation in bold). Require that a proposed study issue receive support from **two** councilmembers in order for staff to prepare a study issue paper, and for the issue to be considered at the Council Study Issues Workshop. An action item to propose study issues would be added to Council agendas three to four times a year.

MOTION FAILED.

VOTE: 3-3 (Councilmembers Howe, Swegles and Whittum dissented; Mayor Spitaleri

absent)

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve a modified staff recommendation for A.1 Study Issue Sponsorship (as modified from staff recommendation in bold). Require that a proposed study issue receive support from **three** councilmembers in order for staff to prepare a study issue paper, and for the issue to be considered at the Council Study Issues Workshop. An action item to propose study issues would be added to Council agendas three to four times a year.

Councilmember Whittum offered a friendly amendment that this rule will not apply to newly elected councilmembers.

Councilmember Howe did not accept the friendly amendment.

VOTE: 4-2 (Vice Mayor Hamilton and Councilmember Whittum dissented; Mayor Spitaleri absent)

MOTION: Councilmember Moylan moved and Councilmember Howe seconded to approve staff recommendations for the following items:

- A.2 Selection of Issues for Study-maintain status quo, all study issues are treated the same and subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).
- A.3 Deadlines for Councilmember-Proposed Study Issues establish a deadline for new Council proposed study issues: three weeks in advance of the public hearing – approximately mid-December (Council would retain the ability to sponsor issues raised at the public hearing, but would need to do so at the meeting rather than after).
- B.1. Pre-Ranking Options Allows an issue to be deferred only two years; automatically remove from the list any issue that has already been deferred twice; remove "sub-element revisions" from consideration during the study issues ranking process; Stick to a Council approved calendar for sub-element revisions as depicted in the City's Capital Improvement Project Plan, and simply inform Council as to those that will be revised in any particular year. That is, continue to include these on the list of policy issues to be studied, but eliminate Council's option to rank or defer them.
- B.2. Ranking Method maintain the status quo utilize the 2008 Council-approved hybrid ranking method, which combines the Simple Majority/Borda Count (for departments with ten or fewer issues) and Choice Ranking (for departments with eleven or more issues) ranking methods.
- B.3. Number of Study Issues Conducted Each Year maintain the status quo rely on the City Manager to advise the City Council as to the number of study issues each department can address in a given year, allowing Council to request additional studies for corresponding increase in budgeted resources.

Vice Mayor Hamilton stated that in the previous motion, Council approved to propose study issues three to four times a year.

Councilmember Moylan explained that one of the reasons of dropping the number of councilmembers who support a study issue from four to three is so as not to hold quarterly study issue meetings. Vice Mayor Hamilton explained that what Council just passed was the

staff recommendation with the only change being that three (instead of four) councilmembers would be needed to support a study issue. The staff report still states that three to four meetings a year would be held for Council to vote on proposed study issues.

Councilmember Moylan stated that he will amend his motion to remove the three to four required meetings on study issues as listed in the staff report.

Councilmember Whittum stated as a point of order, a request to amend a previous motion would require a motion to reconsider by a Councilmember who voted in favor of the item.

City Attorney Kahn stated councilmembers who voted affirmatively for that motion may make a motion to reconsider and if that passes with a majority, and then the revised motion could be voted on again.

(no vote was taken for the current motion on the floor)

MOTION TO RECONSIDER: Councilmember Moylan moved and Councilmember Howe seconded to reconsider the previous motion approving staff recommendation as listed:

A.1 Study Issue Sponsorship (as modified from staff recommendation in bold)).
Require that a proposed study issue receive support from two councilmembers in order for staff to prepare a study issue paper, and for the issue to be considered at the Council Study Issues Workshop. An action item to propose study issues would be added to Council agendas three to four times a year.

VOTE: 6-0 (Mayor Spitaleri absent)

City Manager Chan stated that Council may want to consider raising study issues at the end of a Council meeting or in a joint email in order to make the process a little easier for staff.

MOTION: Councilmember Howe moved and Councilmember Moylan seconded to approve staff recommendation (as modified from staff recommendation in bold) for A.1 Study Issue Sponsorship: Require that a proposed study issue receive the support of **three** councilmembers in order for staff to prepare a study issue paper, and for the study issue to be considered at the Council Study Issues Workshop

with an action item to propose study issues would be added to Council agendas set at two meetings per year and they can be study sessions.

Councilmember Whittum offered a friendly amendment that new councilmembers shall be given three free study issues.

Councilmember Howe did not accept the friendly amendment.

Vice Mayor Hamilton offered a friendly amendment that either three Councilmembers bring a potential study issue to staff or a Councilmember brings a study issue to Council on the dais seeking support under non-agenda items. Councilmembers could bring an item to the dais at any time and would not need to wait until the twice a year study session. Vice Mayor Hamilton stated her main concern is not to have staff involved in recruiting Councilmembers in support of a study issue.

Councilmember Lee stated he would suggest that study issues be proposed during any

open public meeting and not privately.

Councilmember Howe stated that was the intent of his motion.

Vice Mayor Hamilton stated that did not need to be part of the motion because there is nothing preventing Council from bringing study issues up at the end of a meeting and it does not need to be part of the motion.

Councilmember Howe asked the city attorney if potential study issues were to come up during Council non-agenda items and Councilmembers started to discuss the issues, would that violate the Brown Act because the item has not been placed on the agenda.

City Attorney Kahn stated he would like to do further research and get back to Council with his recommendation.

Councilmember Howe requested city attorney respond within a few weeks as to whether study issues can be proposed during non-agenda items.

Councilmember Howe stated his concern is that there could be five Councilmembers supporting a study issue, which would be a majority. At that point, the study issue would be proposed without it being on the agenda and without public input. Councilmember Howe recognized that the other side of this issue could also be argued that a study issue would be part of an open public meeting at which time it will also be voted on.

City Attorney Kahn suggested that rather than adding this to the motion as "study issues to be presented at the end of the Council meeting subject to approval of the city attorney", that Council direct the city attorney to look at that issue and report the findings back to the Council. City Attorney Kahn stated if it is found that study issues could be discussed during non-agenda items, Council would not need to change their vote as it would just be allowed. Councilmember Howe agreed.

Councilmember Moylan explained that the existing process involves a Councilmember announcing that they want to sponsor a study issue and others sometimes joining as cosponsors. Councilmember Moylan explained that process would continue; however, the difference would be that if two other people do not co-sponsor the study issue, then it will go on the list for the next study session. Councilmember Moylan stated it might turn out that the study session will not be needed and if so, the sessions will not be held.

Councilmember Whittum stated he will not be supporting the motion because there is not a clear direction as to how to implement this change for new councilmembers. Councilmember Whittum stated he does not think Council is aware of what they are implementing.

VOTE: 5-1 (Councilmember Whittum dissented; Mayor Spitaleri absent)

Councilmember Moylan stated he would like to make a motion again on the remaining five items for Council approval of the staff recommendations.

MOTION: Councilmember Moylan moved and Councilmember Howe seconded to approve staff recommendations for the following items:

- A.2. Selection of Issues for Study-maintain status quo, all study issues are treated the same and subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).
- A.3. Deadlines for Councilmember-Proposed Study Issues establish a deadline for new Council proposed study issues: three weeks in advance of the public hearing – approximately mid-December (Council would retain the ability to sponsor issues raised at the public hearing, but would need to do so at the meeting rather than after).
- B.1. Pre-Ranking Options Allows an issue to be deferred only two years; automatically remove from the list any issue that has already been deferred twice; remove "sub-element revisions" from consideration during the study issues ranking process; Stick to a Council approved calendar for sub-element revisions as depicted in the City's Capital Improvement Project Plan, and simply inform Council as to those that will be revised in any particular year. That is, continue to include these on the list of policy issues to be studied, but eliminate Council's option to rank or defer them.
- B.2. Ranking Method maintain the status quo utilize the 2008 Council-approved hybrid ranking method, which combines the Simple Majority/Borda Count (for departments with ten or fewer issues) and Choice Ranking (for departments with eleven or more issues) ranking methods.
- B.3. Number of Study Issues Conducted Each Year maintain the status quo rely on the City Manager to advise the City Council as to the number of study issues each department can address in a given year, allowing Council to request additional studies for corresponding increase in budgeted resources.

Councilmember Whittum clarified with Councilmember Moylan that councilmember-elects would not be able to sponsor study issues as identified by the city attorney. A councilmember-elect would have the same ability as any other citizen to attempt to persuade three Councilmembers to sponsor the item.

Councilmember Whittum offered a friendly amendment to exempt a councilmember-elect from the deadline for proposed study issues.

Councilmember Moylan did not accept the friendly amendment.

Councilmember Whittum explained that if the deadline was waived then a new councilmember could propose issues on the same day that they were sworn in.

Vice Mayor Hamilton inquired if it is possible to have the study issues occur three weeks after the swearing in of new councilmembers. Assistant to the City Manager Campbell clarified that the staff report currently states that study issues can still be introduced by Council at the public hearing.

Councilmember Moylan stated that is not the intent of the motion. All study issues have to be sponsored by three councilmembers within three weeks prior to the study issues workshop.

Vice Mayor Hamilton inquired as to what the point would be of the public hearing because no new items would be able to be brought forward. Vice Mayor Hamilton highlighted that the staff recommendation states that Council retains the ability to sponsor issues raised at the

public hearing but would need to do so during the public hearing. Councilmember Moylan stated that new study issues would not be accepted during the day of the workshop and the public hearing should be held at least three weeks prior to the study issues workshop.

Councilmember Moylan stated everything (such as study sessions and public hearings) all need to be held three weeks prior to the workshop. This will give staff adequate time to prepare the study issues papers.

Assistant to the City Manager Campbell explained that the deadline proposed in the staff report is for Council to submit the bulk of their study issues three weeks in advance of the public hearing. The public hearing is three weeks in advance of the workshop. The concept is to allow staff enough time to post the study issues that Council has proposed three weeks in advance of the public hearing in order to allow public review.

Vice Mayor Hamilton verified with Assistant to the City Manager Campbell that newly elected councilmembers are sworn in by the night of the public hearing; therefore, new councilmembers will have an opportunity to have a say on proposed study issues.

Councilmember Moylan explained that a new councilmember will have the ability to have input on proposed study issues if the new councilmember is sworn in by the time of the public hearing and the public hearing is held at least three weeks before the study issue workshop.

Councilmember Whittum verified with Councilmember Moylan that he is striking the phrase contained in section A.3., which states that the deadline will be about mid-December.

Amended MOTION: Councilmember Moylan moved and Councilmember Howe seconded to approve staff recommendations for the following items:

- A.2. Selection of Issues for Study-maintain status quo, all study issues are treated the same and subject to the study issues process (i.e. evaluated for ranking at the Council Study Issues Workshop).
- A.3. Deadlines for Councilmember-Proposed Study Issues establish a deadline for new Council proposed study issues: three weeks in advance of the workshop – approximately mid-December (Council would retain the ability to sponsor issues raised at the public hearing, but would need to do so at the public workshop rather than after).
- B.1. Pre-Ranking Options Allows an issue to be deferred only two years; automatically remove from the list any issue that has already been deferred twice; remove "sub-element revisions" from consideration during the study issues ranking process; Stick to a Council approved calendar for sub-element revisions as depicted in the City's Capital Improvement Project Plan, and simply inform Council as to those that will be revised in any particular year. That is, continue to include these on the list of policy issues to be studied, but eliminate Council's option to rank or defer them.
- B.2. Ranking Method maintain the status quo utilize the 2008 Council-approved hybrid ranking method, which combines the Simple Majority/Borda Count (for departments with ten or fewer issues) and Choice Ranking (for departments with eleven or more issues) ranking methods
- B.3. Number of Study Issues Conducted Each Year maintain the status quo rely on the City Manager to advise the City Council as to the number of study issues

each department can address in a given year, allowing Council to request additional studies for corresponding increase in budgeted resources.

VOTE: 5-1 (Councilmember Whittum dissented; Mayor Spitaleri absent)

3. RTC 08–193 2008-0481 - Adoption of Work Plan for Update of Land Use and Transportation Element – (Study Issue)

Planning Officer Trudi Ryan presented the staff report.

Councilmember Whittum stated it appears that the City will be doing a lot of work leading up to January 2010 without knowing what the revised California Environmental Quality Act (CEQA) guidelines will be, which will be known effective January 2010. Planning Officer Ryan stated a general sentiment exists that Environmental Impact Reports (EIR) should include an analysis of global warming. Planning Officer Ryan stated staff would attempt to include the analysis based on what is happening in other communities. The other option would be to wait for the information to come out; however, since new information is constantly becoming available, staff is recommending to move forward based on whatever is known to be the common wisdom on how to do that analysis.

Vice Mayor Hamilton verified with Planning Officer Ryan that the community outreach on this item will take many different forms. Some of the meetings would be exclusively staff hosted and the Planning Commission and Bicycle and Pedestrian Advisory Commission (BPAC) would assist with input and feedback.

Public hearing opened at 8:59 p.m.

No speakers.

Public hearing closed at 8:59 p.m.

Councilmember Moylan stated a member of the public emailed him requesting that the Mayor's Green Ribbon Committee be included in the outreach efforts on this item. Councilmember Moylan inquired if this committee still exists because if they do, they should be included in the outreach efforts. Director of Community Development Hanson Hom explained the outreach efforts will include compiling mailing lists of all interested citizens. The Green Ribbon Committee is not currently an official advisory committee to Council; however, staff can make sure every member of that committee is included on the mailing list.

Councilmember Lee explained that it is his understanding that Mayor Spitaleri has continued the Green Ribbon Committee, but it would be a good idea to verify that the committee is still in existence.

Councilmember Lee stated that the role of the BPAC and Planning Commission is to be the facilitators at these outreach meetings. It is most important that the comments received during the outreach be included in the final staff report.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternative 1: Council adopts the work plan for update of the Land Use and Transportation

Element as submitted and directs staff to return with separate budgets for advanced web design for an interactive Land Use and Transportation Element (LUTE) and an Environmental Impact Report (EIR) budget in fall 2008 with management and coordination of the LUTE to be done by staff. Staff-hosted outreach meetings are to be held with the Planning Commission and Bicycle and Pedestrian Advisory Commission in optional attendance, and format for the meetings will be coordinated with the two chairs and staff. with the regular process of review by the Planning Commission (and any other boards or commissions) is adhered to.

Councilmember Howe stated staff came up with innovative ideas and this work plan is an improvement.

VOTE: 6-0 (Mayor Spitaleri absent)

4. RTC 08–179 Ordinance Adding Chapter 5.48 (State Video Franchises) to Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code Relating to Regulations for the Provision of Video Service by State Franchise Holders

Director of Information Technology Cuong Nguyen presented the staff report.

Councilmember Howe verified that the one percent fee is the gross revenue that the provider has to submit to the City of Sunnyvale.

Councilmember Howe verified with Assistant City Attorney Rebecca Moon that the Communications Division makes the programming decisions regarding the pay channels and has budget authority over the one percent gross revenue.

Assistant City Attorney Moon explained that the City currently receives paid funding from Comcast and new franchise holders will be subject to the same requirements.

City Manager Chan explained that any appropriation decision rests with the City Council, not at the staff level.

Public hearing opened at 9:07 p.m.

No speakers.

Public hearing closed at 9:07 p.m.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternative 1: Council adopts the proposed ordinance adding Chapter 5.48 to Title 5 the Sunnyvale Municipal Code to provide local authority for PEG programming, franchise fees and audits under the Digital Infrastructure and Video Competition Act of 2006.

Councilmember Howe stated it is appropriate that City Council is involved in who gets the channels, who gets the money and how they get the revenue.

City Clerk Gail Borkowski read the title of the ordinance into the record.

VOTE: 6-0 (Mayor Spitaleri absent)

PUBLIC ANNOUNCEMENTS (cont.)

Vice Mayor Hamilton called Patrick Meyering to the lectern. No response was received.

NON-AGENDA ITEMS & COMMENTS

COUNCIL:

Councilmember Whittum inquired what the potential effect on traffic will be with the installation of a digital marquee at butcher's corner. Councilmember Whittum stated a member of the public identified that a number of accidents have occurred at this intersection.

Transportation and Traffic Manager Jack Witthaus stated there has not been any safety assessment performed on the digital marquee project at Wolfe and El Camino.

Councilmember Whittum passed out copies of resolutions to his fellow colleagues from other cities regarding concerns over the Tuolumne River and its inhabitants. Councilmember Swegles explained that as a representative of the Bay Area Water Supply and Conservation Agency (BAWSCA) these Tuolumne River issues have come before the committee. Councilmember Swegles stated he is available to speak to Councilmember Whittum as to why the agency is not supporting this resolution.

Councilmember Whittum stated by supplying all three documents which includes BAWSCA's comments to his colleagues a balanced pro and con of the issues has been achieved.

Councilmember Whittum requested staff evaluate the report from a member of the public regarding "Chinese Regime's Persecution Against Falun Gong Extends Overseas" with respect to a conflict with current policy. Councilmember Whittum explained that his interest in having staff evaluate this document is in order for Council to consider possibly placing this item on a future agenda.

Councilmember Lee suggested to place on a future agenda consideration of banning the use of plastic bag use within the City of Sunnyvale. Councilmember Howe and Swegles stated they would co-sponsor this item as a study issue.

STAFF: None.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of the Personnel Board of May 19, 2008
- Draft Minutes of the Heritage Preservation Commission Meeting of June 4, 2008
- Study Session Summary of June 10, 2008 on the Update of the Water Resources Sub-Element

• RTC 08-199 Opportunity for Council to appeal decisions of the Planning Commission of June 9, 2008 and the Administrative Hearing of June 11, 2008

ADJOURNMENT

Vice Mayor Hamilton adjourned the Council meeting to the Redevelopment Agency at 9:17 p.m.

Authority Chair Swegles adjourned the Onizuka Local Redevelopment Agency meeting at 9:44 p.m. to the regular Council meeting.

Vice Mayor Hamilton convened the Regular Council meeting and then adjourned the Regular Council meeting to the Special Council Meeting Study Session at 9:44 p.m. - Update on Paramedic Services.

Gail Borkowski	
City Clerk	Date